

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY	:	
	:	00-0579
Proposal to eliminate its Electric Fuel	:	
Adjustment Clause and include fuel and	:	
power supply charges in base rates.	:	

REDACTED
MOTION FOR INTERIM ORDER

NOW COMES, the Staff of the Illinois Commerce Commission ("Staff"), by and through its attorneys, and for its Motion for Interim Order or Alternative Relief states as follows:

BACKGROUND

The hearing of this matter was held on December 18 and 19, 2000. During the hearing on December 19, 2000, counsel for Central Illinois Light Company ("CILCO") announced CILCO's intent to file a motion for late-filed information. Tr., at 312. CILCO explained that the late-filed information would contain schedules reflecting the Commission Order entered on December 19, 2000 in Docket No. 99-0468, as well as up-dated data regarding the price of energy. On January 5, 2001, CILCO filed the Motion to File CILCO Supplemental Exhibit No. 9.0, which included calculations reflecting the revisions from the Order in Docket No. 99-0468 as well as updated data for the price of energy. Staff and Intervenor filed Responses in opposition to the Motion to File Supplemental Exhibit No. 9.0, arguing that the Company was attempting to interject new methodologies and data with no opportunity for meaningful review or cross examination. The Motion to File

Supplemental Exhibit No. 9.0 has not been ruled on. Thus, the record remains open for the Hearing Examiner to consider CILCO's motion to enter new evidence regarding the cost of energy.

A major issue in the docket concerned the cost of coal from the Freeman United Coal Company, Crown II mine ("Freeman") that is used at CILCO's Duck Creek Station. CILCO alleged that the coal cost for 2000 was \$XX per ton and that this cost would be representative of future coal costs at Duck Creek. CILCO Ex. 7.1, p. 7. Staff, while recognizing that the Freeman price was high, did not take issue with CILCO's contract. Based upon the information the Company had in 1976, when the contract was entered, the contract was prudent. However, Staff did take issue with CILCO's allegation that the Freeman coal cost \$XX per ton in 2000. During 1999, CILCO paid \$XX.XX per ton for Freeman coal. Staff Ex. 7, p. 5. Staff witness Larson testified that the estimated final price for Freeman coal was \$XX.XXX per ton. *Id.*, at 3

Interim Order

On January 24, 2001, it was brought to Staff's attention through a series of newspaper articles that CILCO had notified Freeman of its intent to cancel the contract. See attached Exhibit A. The proposed cancellation of the contract would have a significant effect on the Company's cost of coal. CILCO's own statements indicate that the Freeman coal is twice as expensive as other alternatives. In fact, Staff stated in the record of this proceeding that alternative coal is available at a price of \$XX.XX per ton. Staff Ex. 1, p. 11, (\$X.XX/Mbtu) If the Commission were to enter a final order in this proceeding that adopts CILCO's position as to the cost of coal, and if CILCO were to terminate the

Freeman contract (\$XX/ton) and obtain coal at \$XX.XX per ton, CILCO would pocket roughly \$XX million annually. CILCO's total fuel and purchase power cost is approximately \$XXX million, thus the \$XX million dollars represents approximately one quarter of CILCO's total fuel costs. Staff Ex. 1.2.

In response to the newspaper articles, Staff immediately sent out data requests seeking further information on the Freeman contract issue. In reply to the data requests, Staff received documents indicating that during the evidentiary phase of this docket, and as early as October 24, 2000, CILCO had informed Freeman that CILCO may terminate the contract. See attached Exhibit B. In addition, on November 15, 2000, CILCO filed its First Amended Claim Statement before the American Arbitration Association ("AAA"). CILCO's claims at AAA include a request for \$XX million in refunds from Freeman. See attached Exhibit C, p. 6. Again, it is CILCO's intent that the ratepayers will receive none of the benefit of the refund. Incredibly, despite the major impact the contract termination or requested refunds would have on the cost of coal, and the parties' demonstrated interest in the issue, CILCO never revealed its activities during the course of this proceeding. In light of the magnitude of the effect the cancellation would have on CILCO's costs, it is imperative that the Commission have the opportunity to take into consideration the resolution of CILCO's notice of termination, before entering a final order. If the Commission enters a final order without considering the potential impact of CILCO's termination of this contract (\$XX million) and the potential refund (\$XX million), it may result in a \$XX million windfall for CILCO.

Section 9-220(d) requires that the Commission approve or approve as modified the proposed tariff sheets within 240 days after the date of the filing. 20 ILCS 5/9-220(d).

Given this requirement, Staff proposes that an interim order be entered based upon the evidence that currently is in the record. CILCO will have 7 days subsequent to the entry of the interim order to accept or reject the tariff as modified. After the Interim Order has been entered, if it is accepted, the record should be reopened so that the Company, Intervenor and Staff will have the opportunity to present additional evidence subject to hearings and cross examination.

Staff believes that these recent developments add further support for adopting Staff's position in this docket in the Interim Order. See Reply Brief. Acceptance of Staff's position in an Interim Order will allow CILCO's customers to see some immediate savings before a final order is issued.

Staff is confident that the proposal to utilize an Interim Order will accord both the Commission and the parties the opportunity to appropriately consider the ramifications of the Freeman contract situation in the context of this docket.

WHEREFORE, Staff respectfully requests that the Hearing Examiner the Commission enter an interim order in this matter until the facts can be further investigated.

Respectfully submitted,

JANIS E. VON QUALEN
JOHN J. REICHART
Staff Attorneys

Counsel for the Staff of the Illinois
Commerce Commission

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NOTICE OF FILING

TO: Attached Service List

PLEASE TAKE NOTICE that on this 26th day of January, 2001, I have filed with the Chief Clerk of the Illinois Commerce Commission, the redacted and unredacted versions of the Motion for Interim Order, copies of which are hereby served upon you.

JANIS E. VON QUALEN
Staff Attorney

Counsel for the Staff of the Illinois Commerce
Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing, together with the redacted and unredacted versions of the Motion for Interim Order, was served upon the parties on the attached service list by electronic mail and by first class mail, proper postage prepaid, on the 26th day of January, 2001.

JANIS E. VON QUALEN

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